

AN ACT
CONCERNING THE USE OF ELECTRONIC COMMUNICATION DEVICES WHILE
DRIVING, AND PROVIDING PENALTIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 321.178, subsection 2, paragraph a, Code 2009, is amended to read as follows:

a. (1) A person between sixteen and eighteen years of age who has completed an approved driver's education course and is not in attendance at school and has not met the requirements described in section 299.2, subsection 1, may be issued a restricted license only for travel to and from work or to transport dependents to and from temporary care facilities, if necessary for the person to maintain the person's present employment. The restricted license shall be issued by the department only upon confirmation of the person's employment and need for a restricted license to travel to and from work or to transport dependents to and from temporary care facilities if necessary to maintain the person's employment. The employer shall notify the department if the employment of the person is terminated before the person attains the age of eighteen.

(2) (a) A person issued a restricted license under this section shall not use an electronic communication device or an electronic entertainment device while driving a motor vehicle unless the motor vehicle is at a complete stop off the traveled portion of the roadway. This subparagraph division does not apply to the use of electronic equipment which is permanently installed in the motor vehicle or to a portable device which is operated through permanently installed equipment. A violation of this subparagraph division shall not be considered a moving violation except for purposes of section 321.193.

(b) For the period beginning July 1, 2010, through June 30, 2011, peace officers shall issue only warning citations

for violations of subparagraph division (a). The department, in cooperation with the department of public safety, shall establish educational programs to foster compliance with the requirements of subparagraph division (a).

Sec. 2. Section 321.180B, Code Supplement 2009, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. *a.* A person issued an instruction permit or intermediate driver's license under this section shall not use an electronic communication device or an electronic entertainment device while driving a motor vehicle unless the motor vehicle is at a complete stop off the traveled portion of the roadway. This paragraph does not apply to the use of electronic equipment which is permanently installed in the motor vehicle or to a portable device which is operated through permanently installed equipment. A violation of this paragraph shall not be considered a moving violation except for purposes of section 321.193.

b. For the period beginning July 1, 2010, through June 30, 2011, peace officers shall issue only warning citations for violations of paragraph "a". The department, in cooperation with the department of public safety, shall establish educational programs to foster compliance with the requirements of paragraph "a".

Sec. 3. Section 321.194, subsection 1, Code Supplement 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. *c.* (1) A person issued a driver's license under this section shall not use an electronic communication device or an electronic entertainment device while driving a motor vehicle unless the motor vehicle is at a complete stop off the traveled portion of the roadway. This subparagraph does not apply to the use of electronic equipment which is permanently installed in the motor vehicle or to a portable device which is operated through permanently installed equipment. A violation of this subparagraph shall not be considered a moving violation except for purposes of section 321.193.

(2) For the period beginning July 1, 2010, through June

30, 2011, peace officers shall issue only warning citations for violations of subparagraph (1). The department, in cooperation with the department of public safety, shall establish educational programs to foster compliance with the requirements of subparagraph (1).

Sec. 4. Section 321.210, subsection 2, Code 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. *e.* Violations of section 321.276.

Sec. 5. NEW SECTION. **321.238 Use of electronic devices while driving — preemption of local legislation.**

The provisions of this chapter restricting the use of electronic communication devices and electronic entertainment devices by motor vehicle operators shall be implemented uniformly throughout the state. Such provisions shall preempt any county or municipal ordinance regarding the use of an electronic communication device or electronic entertainment device by a motor vehicle operator. In addition, a county or municipality shall not adopt or continue in effect an ordinance regarding the use of an electronic communication device or electronic entertainment device by a motor vehicle operator.

Sec. 6. NEW SECTION. **321.276 Use of electronic communication device while driving — text-messaging.**

1. For purposes of this section:

a. "*Engage in a call*" means talking or listening on a mobile telephone or other portable electronic communication device.

b. "*Hand-held electronic communication device*" means a mobile telephone or other portable electronic communication device capable of being used to write, send, or read a text message. "*Hand-held electronic communication device*" does not include a voice-operated or hands-free device which allows the user to write, send, or read a text message without the use of either hand except to activate or deactivate a feature or function. "*Hand-held electronic communication device*" does not include a wireless communication device used to transmit or receive data as part of a digital dispatch system. "*Hand-held electronic communication device*" includes a device which is temporarily

mounted inside the motor vehicle, unless the device is a voice-operated or hands-free device.

c. "Text message" includes a text-based message, an instant message, and electronic mail.

d. The terms "write", "send", and "read", with respect to a text message, mean the manual entry, transmission, and retrieval of a text message, respectively, to communicate with any other person or device.

2. A person shall not use a hand-held electronic communication device to write, send, or read a text message while driving a motor vehicle unless the motor vehicle is at a complete stop off the traveled portion of the roadway.

a. A person does not violate this section by using a global positioning system or navigation system or when, for the purpose of engaging in a call, the person selects or enters a telephone number or name in a hand-held mobile telephone or activates, deactivates, or initiates a function of a hand-held mobile telephone.

b. The provisions of this subsection relating to reading a text message do not apply to the following persons:

(1) A member of a public safety agency, as defined in section 34.1, performing official duties.

(2) A health care professional in the course of an emergency situation.

(3) A person receiving safety-related information including emergency, traffic, or weather alerts.

3. Nothing in this section shall be construed to authorize a peace officer to confiscate a portable electronic communication device from the driver or occupant of a motor vehicle.

4. *a.* A person convicted of a violation of this section is guilty of a simple misdemeanor punishable as a scheduled violation under section 805.8A, subsection 14, paragraph "k".

b. A violation of this section shall not be considered a moving violation for purposes of this chapter or rules adopted pursuant to this chapter.

5. *a.* A peace officer shall not stop or detain a person

solely for a suspected violation of this section. This section is enforceable by a peace officer only as a secondary action when the driver of a motor vehicle has been stopped or detained for a suspected violation of another provision of this chapter, a local ordinance equivalent to a provision of this chapter, or other law.

b. For the period beginning July 1, 2010, through June 30, 2011, peace officers shall issue only warning citations for violations of this section. The department, in cooperation with the department of public safety, shall establish educational programs to foster compliance with the requirements of this section.

Sec. 7. Section 321.482A, unnumbered paragraph 1, Code 2009, is amended to read as follows:

Notwithstanding section 321.482, a person who is convicted of operating a motor vehicle in violation of section 321.178, subsection 2, paragraph "a", subparagraph (2), section 321.180B, subsection 6A, section 321.194, subsection 1, paragraph "c", section 321.275, subsection 4, section 321.276, 321.297, 321.298, 321.299, 321.302, 321.303, 321.304, 321.305, 321.306, 321.307, 321.308, section 321.309, subsection 2, or section 321.311, 321.319, 321.320, 321.321, 321.322, 321.323, 321.323A, 321.324, 321.324A, 321.327, 321.329, or 321.333 causing serious injury to or the death of another person may be subject to the following penalties in addition to the penalty provided for a scheduled violation in section 805.8A or any other penalty provided by law:

Sec. 8. Section 321.555, subsection 2, Code 2009, is amended to read as follows:

2. Six or more of any separate and distinct offenses within a two-year period in the operation of a motor vehicle, which are required to be reported to the department by section 321.491 or chapter 321C, except equipment violations, parking violations as defined in section 321.210, violations of registration laws, violations of sections 321.445 and 321.446, violations of section 321.276, operating a vehicle with an expired license or

permit, failure to appear, weights and measures violations and speeding violations of less than fifteen miles per hour over the legal speed limit.

Sec. 9. Section 805.8A, subsection 4, paragraph a, Code Supplement 2009, is amended to read as follows:

a. For violations under ~~sections~~ section 321.174A, section 321.178, subsection 2, paragraph "a", subparagraph (2), sections 321.180, 321.180B, 321.193, and 321.194, the scheduled fine is thirty dollars.

Sec. 10. Section 805.8A, subsection 14, Code Supplement 2009, is amended by adding the following new paragraph:

NEW PARAGRAPH. *k. Text-messaging while driving violations.* For violations under section 321.276, the scheduled fine is thirty dollars.

PATRICK J. MURPHY
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2456, Eighty-third General Assembly.

MARK BRANDSGARD
Chief Clerk of the House

Approved _____, 2010

CHESTER J. CULVER
Governor